

Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

COMPLAINT ON POST E.C.S.

Docket No. C99-1

**MOTION OF THE UNITED STATES POSTAL SERVICE FOR EXTENSION
OF TIME TO FILE INFORMATION REGARDING UPS INTERROGATORIES
5, 6, 10, 11, 12, 13, AND 14,
AND FOR CLARIFICATION OR RECONSIDERATION REGARDING
SUBPART 5(D)**

The United States Postal Service hereby moves that it be granted an extension until Monday, August 30th, to file responsive materials regarding United Parcel Service interrogatories 5, 6, 10, 11, 12, 13, and 14. Each of these items seeks access to materials which include commercially-sensitive information which, if publicly disclosed, could harm the Postal Service's competitive interests. In Presiding Officer's Ruling C99-1/9 (August 9, 1999) at 4, in the context of these interrogatories, the Presiding Officer directed the Postal Service "to prepare and file a list specifying the particular privilege claimed for each category of document requested." At the Prehearing Conference the next day, however, at the request of counsel for UPS, the Presiding Officer amended his written ruling to apply not to categories of documents, but to "each document." Tr. 1/13-14. Notwithstanding this amendment, Postal Service counsel agreed to endeavor to provide the list by today, August 20th. Tr. 1/15.

Having attempted to meet that target, however, it is now apparent that counsel seriously underestimated the amount of time needed to respond to the amended

directions. Broadening the scope from "each category of document" to "each document" had a much more onerous impact than was apparent in the midst of the prehearing conference. The Postal Service will require an additional 10 days to complete the requested index. The amount of additional time that appears necessary is primarily related to the sheer volume of the material that needs to be reviewed. Compounding the situation, however, are at least two other factors. First, postal counsel assigned responsibility for this case has begun a developmental detail in another area, and the benefit of his greater familiarity with the documents in question has been lost. Second, the postal clients whose documents are at issue have been working towards a deadline of today, August 20th. Under what has now proven to be an unduly optimistic assumption that this portion of the discovery burden would be completed by that date, other pressing commitments were scheduled for next week. Therefore, simultaneously working both to fulfill those commitments and to complete this task, it appears that any target date before Monday, August 30th would simply be unrealistic. If, however, it becomes practical to release discrete portions of the material in advance of August 30th, the Postal Service will make every effort to do so.

One particular source of difficulty is subpart (d) of UPS interrogatory 5. That subpart seeks copies of:

(d) Communications sent to any customers or potential customers, by mail or any other form of delivery, including wholly electronic means

if those communications refer or relate to Post E.C.S. By switching the level of analysis from "categories of documents" to "each document," the burden of identifying the set of e-mails potentially responsive to this subpart increased exponentially. Not only are

there potentially hundreds of e-mails that might be responsive, but there are thousands of e-mails, spread within the electronic files of numerous individuals, that would need to be examined in order to segregate those "referring or relating" to Post E.C.S. from those which do not. If it is truly the intent of the Presiding Officer that the Postal Service attempt to index these e-mails by reference to each separate message, the potential for significant delay is obvious. The Postal Service requests that the Presiding Officer reconsider his directions with respect to subpart 5(d), or otherwise clarify how he wishes the Postal Service to proceed with respect to this task. While it may be feasible for the Postal Service to proceed on a "category" basis with respect to e-mails by August 30, there are virtually no prospects for completing a "document" index by that date.

Attempts by postal counsel to consult with counsel for UPS by phone today prior to submitting this motion were not successful. The Postal Service will continue to pursue those efforts, however, and, if appropriate, inform the Presiding Officer of any

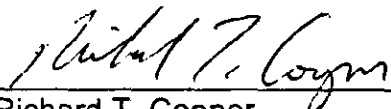
progress which might emanate from such discussions.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking


Richard T. Cooper
Attorney

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2993; Fax -6187
August 20, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.


Richard T. Cooper

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
August 20, 1999